

## Message Text

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ACTION L-02

INFO OCT-01 EUR-12 IO-10 ISO-00 AF-06 ARA-06 EA-06 NEA-09

SS-15 SP-02 H-02 NSC-05 OIC-02 CIAE-00 INR-07 NSAE-00

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FM USMISSION USUN NEW YORK

TO SECSTATE WASHDC IMMEDIATE 9449

INFO AMEMBASSY VIENNA PRIORITY

C O N F I D E N T I A L USUN 764

E.O. 11652: GDS

TAGS: PORG, AORG, PDIP, UN, AU

SUBJ: CONFERENCE ON RELATIONS BETWEEN STATES AND INTERNATIONAL ORGANIZATIONS

REFS: (A) STATE 050529; (B) VIENNA 2059

1. FROM MISSION PERSPECTIVE, THERE ARE TWO PRINCIPAL DANGERS IN THE PROSPECTIVE CONVENTION: (A) TOGETHER WITH PROBABLE CONSEQUENT ACTION ON PRIVILEGES OF NON-STATE OBSERVER MISSIONS AND DELEGATIONS, THE CONVENTION MAY IN TIME SUBSTANTIALLY HARM THE NOT UNSATISFACTORY CHARACTER OF HOST COUNTRY-UN MISSION RELATIONS. (B) INTERNATIONAL COMMUNITY OPINION AND DISPUTE SETTLEMENT BODIES MAY COME TO REGARD THE CONVENTION AS DECLARATORY OF THE LAW IN AREAS WHERE (I) THIS NOT THE CASE AND (II) THE US AS A MATTER OF POLICY WOULD NOT WISH TO BE BOUND BY THE NEW RULES IN THE CONVENTION.

2. PROBLEM IS WHAT ACTION AT FINAL STAGE OF THE CONFERENCE WILL LESSEN THESE RISKS TO GREATEST DEGREE POSSIBLE. AS TO THE US VOTE, WE THINK THAT IT WOULD NOT RPT NOT BE HELPFUL IF THE US AND ONLY ONE OR TWO OTHER DELEGATIONS WERE TO VOTE AGAINST ADOPTION OF THE CONVENTION. DOING SO WOULD BOTH CHEAPEN THE VALUE OF ABSTENTIONS, OF WHICH THERE WILL, HOPEFULLY, BE A NUMBER BY IMPORTANT HOST COUNTRIES, AND  
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GIVE THE FALSE IMPRESSION THAT US VIEWS ARE SHARED BY AL-

MOST NO ONE. FOR THIS REASON WE WOULD THINK A US ABSTENTION ACCOMPANIED BY A CLEAR STATEMENT OF VIEWS (SEE BELOW) WOULD BE DESIRABLE IN CIRCUMSTANCES WHERE, AS WE WOULD GUESS, PREVAILING HOST COUNTRY AND LIKE WEO VIEWS TEND TOWARD ABSTENTION. SIMPLY STATED, THE BASIS FOR THE ABSTENTION, WOULD BE THAT THE US DOES NOT REGARD IMPORTANT ASPECTS OF THE CONVENTION AS BEING DECLARATORY OF THE LAW, WE THINK ITS "PROGRESSIVE DEVELOPMENT" WILL IMPEDE THE WORK OF INTERNATIONAL INSTITUTIONS BY MAKING IT IMPOSSIBLE FOR THEM TO REALIZE THE TREATMENT APPARENTLY DESIRED, BUT THAT IF OTHERS WISH TO ACCEPT THE CONVENTION, THAT IS UP TO THEM.

3. WE THINK THE DELEGATION SHOULD MAKE A STATEMENT IN ANNOUNCING THE US VOTE ON THE ADOPTION OF THE CONVENTION IN PLENARY EXPLAINING BY WAY OF EXAMPLE SOME PRINCIPAL ASPECTS OF THE CONVENTION THAT DEPART SIGNIFICANTLY FROM CURRENT LAW AND PRACTICE. THUS THE STATEMENT COULD EXPLAIN THAT UNDER EXISTING INTERNATIONAL LAW AND PRACTICE ADMINISTRATIVE AND TECHNICAL STAFF OF SENDING STATE MISSIONS ARE ENTITLED TO FUNCTIONAL IMMUNITIES ONLY, AND THAT NON-STATE OBSERVER MISSIONS ARE NOT ENTITLED AS OF RIGHT TO ANY LEVEL IMMUNITIES. AS PER PARA 4 REFTTEL, IT WOULD ALSO BE APPROPRIATE TO RECALL TWO OR THREE CONSTRUCTIVE ASPECTS OF CONVENTION'S PROGRESSIVE DEVELOPMENT SINCE THIS WOULD REFLECT REALITY OF WHAT CONFERENCE HAS DONE.

4. IT WOULD BE OF GREAT VALUE IF OTHER HOST COUNTRIES WOULD ALSO MAKE BRIEF RECORDED STATEMENTS SPECIFYING IN WHAT IMPORTANT REGARDS THE CONVENTION DEPARTS FROM EXISTING LAW AND PRACTICE. MIGHT NOT THE UK, FRANCE, SWITZERLAND AND ITALY IN PARTICULAR BE AGREEABLE TO DOING SO IF APPROACHED URGENTLY AT HEAD OF DELEGATION LEVEL?  
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